

EXHIBIT 8

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1 IN THE UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION
4

5 CRIMINAL ACTION NO: 05-119-MEF
6 UNITED STATES OF AMERICA
7 v.
8 DON EUGENE SIEGELMAN, PAUL MICHAEL
9 HAMRICK, GARY MACK ROBERTS and
10 RICHARD M. SCRUSHY
11

12 EXCERPT FROM PROCEEDINGS
13 ALVA LAMBERT DIRECT TESTIMONY
14 TAKEN ON 05-01-06
15

16 C A P T I O N
17 The above-entitled cause came
18 on to be heard before the Honorable Mark
19 Fuller, Judge, at the Federal Courthouse,
20 15 Lee Street, Montgomery, Alabama.
21

22 REPORTED BY: Eleanor S. Pickett
23 Certified Shorthand Reporter
and Notary Public

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17 appointed to the CON Board, do you keep
18 the records of those individuals?

19 A. We do. They're transmitted to
20 us from the governor's office, and we keep
21 a record. Of course, that's how we are
22 notified as to who constitutes the CON
23 Review Board.

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1 And, if I may, real quickly I
2 will tell you that that is a nine-member
3 board, and it is appointed by the governor
4 and they serve at his discretion. And
5 they fill three categories of three
6 members.

7 Q. Tell us about those three
8 categories.

9 A. The three categories are three
10 providers of health care services; three
11 consumers of health care services, and by
12 consumers, it's defined as those who are
13 not providers of health care services; and
14 then three at-large appointments to serve
15 as the governor's representatives. But
16 they all serve at his pleasure.

17 Q. And do they serve the entire
18 time that the governor is in office? The
19 governor's office is a four-year term. Is
20 the appointment for a four-year term?

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21 A. The appointments are staggered
22 for three-year terms. And typically the
23 person who is appointed to that board is

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1 reappointed. But terms are really
2 irrelevant because they do serve at the
3 pleasure of the governor.

4 Q. You were the executive
5 director of SHPDA during the time that Don
6 Siegelman was governor of the state of
7 Alabama; is that correct?

8 A. That is correct.

9 Q. would you, your office -- when
10 I say you, I mean your office -- have
11 records of who was appointed to the CON
12 Board during that administration?

13 A. Yes, sir.

14 Q. Now, before we get to those
15 records, could you tell us what happened
16 with respect to the CON Board as you best
17 can recall? what was the first thing that
18 happened when Don Siegelman was elected
19 and sworn in as governor?

20 A. First action that I recall in
21 that -- in the Siegelman administration
22 was a moratorium was issued by way of
23 executive order.

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1 Q. Okay. And what is a
2 moratorium, Mr. Lambert?

3 A. A moratorium is in the form of
4 an executive order from the governor's
5 office that states that the -- there is
6 limitation placed upon the activity that
7 our agency can conduct. Specifically that
8 limitation usually relates to the issuance
9 of certificates of need, the consideration
10 of certificates of need by the CON Review
11 Board. And when it's issued in its
12 fullest extent, even those hearings that
13 are being conducted are suspended.

14 Q. And would the executive order
15 go into more detail as to exactly what is
16 covered in the moratorium?

17 A. Yes, sir, it would.

18 Q. Now, what happens to the CON
19 Board members who were a part of the
20 previous administration? Does it just
21 carry over to the next administration?

22 A. It is not typical. I mean,
23 technically they would, but it's not

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1 typical for a new administration to leave

2 CON Review Board members in place prior to
3 a moratorium.

4 MR. FRANKLIN: Your Honor, may
5 I approach the witness?

6 THE COURT: You may.

7 Q. (BY MR. FRANKLIN:) Mr.
8 Lambert, I'm going to show you --

9 MR. FRANKLIN: Sorry, Your
10 Honor.

11 Q. (BY MR. FRANKLIN:) Mr.
12 Lambert, I'm going to show you what has
13 been marked for identification purposes as
14 Government Exhibit Number 2 and ask you,
15 if you would, please take a look at that
16 exhibit and tell me if you recognize it.

17 A. Yes, sir, I do.

18 Q. What is it?

19 A. It is executive order number
20 three from the governor's office dated
21 January 25th, 1999. It is the body of the
22 moratorium of which I just testified of.

23 Q. Okay. And does it cover any

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1 more area than what you previously talked
2 about? And what I'm asking you is, in
3 terms of that document that is in front of
4 you, does it tell you exactly what